SASKATCHEWAN

REPORT

OF THE

OMBUDSMAN

PERIOD 1 JANUARY 1991 – 31 DECEMBER 1991

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NINETEENTH ANNUAL REPORT

"So long as we are mindful that in our endeavours to seek redress for grievances, we are there neither to witch-hunt nor to white-wash;

So long as we remember that we can help to make good government better but cannot make bad government good;

So long as we believe in ourselves and at the same time remember that we are also fallible human beings;

So long as we retain our political neutrality and act impartially, independently and fearlessly but without rancour;

So long as we take care to explain governmental decisions where necessary and at the same time not overlook to give reasons for our decisions and recommendations;

So long as we ourselves remain human and accessible in an age of rapid technological advance where the society itself is becoming increasingly impersonal;

and, so long as we, to use the words of Socrates — hear cautiously, answer wisely, consider solidly and decide impartially . . .

then in my humble view the Ombudsman image will continue to grow and shine in the international sphere not only in the 90's but also for the years ahead."

By: Justice Sir Moti Tikaram,
Ombudsman of Fiji, 1984

92-05609/

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SASKATCHEWAN

The Honourable The Speaker
of the Legislature
Province of Saskatchewan
Legislative Buildings
REGINA, Saskatchewan
S4S 0B3

Dear Mr. Speaker:

In accordance with the provisions of subsection (1) of Section 30 of **The Ombudsman Act,** it is my duty and privilege to submit to you and to the Legislature, the nineteenth Annual Report of the Saskatchewan Ombudsman.

Yours sincerely,

Gerald P. McLellan
OMBUDSMAN

PART I

OVERVIEW

PART I

OVERVIEW

This is my fifth Annual Report and the nineteenth since **The Ombudsman Act** was passed in 1972. My report will cover the calendar year of 1991.

Since, my term of office expires in the latter part of 1992, I thought this would be an ideal opportunity not only to reflect on some of our accomplishments but also to look to the future.

When I was appointed Ombudsman in 1987, I was somewhat of a neophyte to the concept of Ombudsman. I quickly realized that not only was the Office of the Ombudsman the last remedy for people who were unable to resolve their differences with the provincial government, but for most it was their only remedy.

Each year we continue to receive and resolve individual complaints of administrative unfairness. Resolutions to these individual complaints often have no impact beyond the individual involved. A sampling of individual complaints is included in Part III of this report. We also investigate instances of administrative unfairness stemming from systemic problems in the delivery of public services. These enquiries have a much broader impact and usually result in an overall reduction in complaints against the department or agency under investigation. Examples of improvements in government administration prompted by our investigations into systemic problems include: adjustments to the student loan program allowing students to retain eligibility for remission/forgiveness of part of their student loans despite missing the application deadline; recognition by the Liquor Licensing Commission that a full hearing must occur prior to the cancellation of a liquor license; improvements by correctional centres in the handling of inmate property; and provisions ensuring that disabled clients of the Department of Social Services are represented by legal counsel should the need arise.

Our complaint volume over the past 5 years has seen some modest increases. To some extent this may be viewed as a positive reflection on those who continue to attempt to provide high quality services to the public despite shrinking resources. On the other hand, even though the increase is modest, the number of people experiencing difficulties with our complex system of government is increasing nonetheless.

I expect the trend to continue. Government will undoubtedly become more complex. Efforts to become more efficient could result in less flexibility,

making it difficult if not impossible for government agencies to make allowances for individual circumstances, which will of course result in more complaints to my office. Without guidance, this trend could result in fair play being sacrificed to administrative efficiency.

Difficult financial times, if they continue, will also have their effect on the number of complaints I receive. Traditional means of dispute resolution, such as the courts, which many people cannot afford now, will become even less affordable. Non-government agencies, which at one time provided a wide range of advocacy services, have already been reduced to essential services only. Both these trends will result in more people approaching my office for assistance.

Public expectations despite these difficult financial times continue to be high. Rightly or wrongly the public tends to believe that they are not receiving the kinds or quality of services to which they are entitled in return for their tax dollars.

With regard to my office, the public believes, and rightly so, that prompt resolution of complaints is fundamentally important. Unfortunately, the process for resolution of complaints provided for in my **Act** can be, and often is, cumbersome and time consuming. It has its place and in appropriate circumstances continues to be utilized. Two instances where it was necessary to utilize the formal process were the Bosco Homes investigation and the Principal investigation. In both instances, my reports, which became public, involved serious and complex matters incapable of early resolution.

Since I believe in the importance of prompt complaint resolution, I have encouraged my intake officers and investigators to attempt to resolve complaints without resorting to the formal process provided for in my **Act**. I am aided in my efforts by the government, which continues to decentralize the decision making process, thereby making the possibility of quick resolution of complaints more likely.

Occasionally the effectiveness of my office is challenged by my present inability to adjust staffing in response to substantial fluctuations in the number and kinds of complaints I receive. For example, the Bosco and Principal investigations both used up months of staff time and left me with a large backlog of complaints. Some recognition must be given to the strain investigations of this magnitude place on my limited resources, if I am to fairly service the other people who approach me with complaints.

While I have no control over the number and type of complaints I receive, I

do have the authority to initiate investigations on my own motion. Other jurisdictions with the same authority have found it profitable to undertake systemic investigations of entire government departments often with the assistance of departmental staff. This type of investigation, although very effective in promoting fairness in public administration, tends to be lengthy and costly. There is a need for such investigations in Saskatchewan, but at present I have too few staff to effectively conduct such investigations.

My effectiveness would also be enhanced through legislative amendments to **The Ombudsman Act**. One issue which I believe deserves the immediate attention of the members of the Legislative Assembly is the need to strengthen the independence of the Ombudsman and to confer upon him or her jurisdictional boundaries consistent with those imposed on other Ombudsmen throughout the country.

In 1989, I indicated that I firmly believed in the need to form a Standing Committee of the Legislature to review the operation and effectiveness of the Ombudsman. At the present time, although my office is legislatively accountable to the Legislative Assembly, in practice, it is accountable to the executive branch of government — the branch which I regularly investigate. The potential for conflict is obvious. I have repeatedly asked to have our accountability shifted to where I believe it more properly belongs, but my requests have apparently fallen upon deaf ears.

In addition to the above changes, I believe **The Ombudsman Act** ought to receive a comprehensive review. Passed in 1972, it has undergone but minor change. The **Saskatchewan Ombudsman Act** is the most restrictive of all the Ombudsman Acts in the country. People responsible for the implementation of government programs and policies ought not to have greater protections from public scrutiny in Saskatchewan than elsewhere. Residents of this province are entitled to at least no less, and arguably more, than residents of other provinces. I believe that after some 20 years it is time to re-think some of the restrictions on the Ombudsman's jurisdiction.

Children's issues continue to remain high on our list of priorities. Two jurisdictions, British Columbia and Manitoba, have created separate units within their office to deal exclusively with child and youth issues. Similar units are needed in Saskatchewan if my office is to properly serve this most vulnerable sector of our society.

Children continue to be abused and neglected, and the number of abused and neglected children is apparently increasing. Even worse is the increasing number of children dying as a result of abuse. There are many reasons for the increase in child abuse, including poverty, unemployment,

abuse of alcohol and drugs, and lack of parenting skills. Despite the magnitude of the problem, we must not become discouraged, or indeed less committed to the protection of children.

Government presently plays an important role with respect to the protection of children and could play an even larger role. The protocols designed to detect and prosecute alleged offenders are a good first step, but more is required. Government sponsored, multi-disciplinary approaches must be adopted to address the myriad of issues that abuse and neglect presents.

One issue that deserves attention is quality of care for children in foster homes. Children in care continue to be at risk, despite departmental screening of potential foster parents. Discipline of foster children still remains an issue and ought to be resolved.

Efforts should also be made to increase awareness of community responsibility for child welfare. The community cannot abdicate its duty to protect children in the hope that government will intervene. As a community we must accept the responsibility to report instances of abuse and neglect. Only then will children receive the protection they deserve.

The pending Freedom of Information and Privacy legislation is of great interest to me. My understanding is that this legislation will be proclaimed on April 1, 1992. While the legislation may not be perfect, I believe it is an important step in allowing people to participate in the decision making process. Stephen Owen, Ombudsman for British Columbia in his 1990 Annual Report said:

> "Openness is essential in a democracy in order for us to participate meaningfully in our own self-government."

NATIONAL CONFERENCE OF CANADIAN OMBUDSMEN

The 1991 National Conference of Canadian Ombudsmen was hosted by Manitoba Ombudsman Gordon Earle.

This annual event provides the provincial Ombudsmen and their federal counterparts an opportunity to meet and discuss areas of mutual concern and interest. Aboriginal issues and the role of the Ombudsman in our ever changing society were the focal points of the conference. Also on the agenda were children's issues, including a discussion on the United Nations Convention on the Rights of the Child, public relations, the Ombudsman's relationship with the community and access to information.

The Ombudsman as an Alternate Dispute Resolution mechanism was also debated. Many saw the Ombudsman, with his broad powers of investigation, as a good option for dispute resolution.

NATIONAL OMBUDSMAN INVESTIGATOR'S WORKSHOP

The National Ombudsman Investigator's Workshop provides my investigative staff with an opportunity to learn new skills, gather information on investigative methods and techniques and refine strategies presently employed.

The 1991 workshop focused on three areas, namely, systemic or audit investigations, investigative remedies and the dilemma of secrecy. Systemic investigations, as the name implies, address entire administrative systems in government with a view to promoting fairness in the delivery of services. These types of investigations are intended to prevent the recurrence of complaints that are caused by inequities built into a system. Investigators reviewed the variety of compensation remedies available and discussed the rationale for recommending particular remedies. Discussions on the dilemma of secrecy provided an opportunity to explore moral and ethical dilemmas associated with divulging or withholding information during an investigation.

SASKATCHEWAN METIS JUSTICE REVIEW AND SASKATCHEWAN JUSTICE REVIEW COMMITTEES

The Saskatchewan Metis Justice Review Committee and the Saskatchewan Justice Review Committee were struck by the Minister of Justice to examine how the criminal justice system of Saskatchewan deals with Indian and Metis offenders. The Committees were given broad mandates to enquire into crime prevention, policing, the courts and corrections. Their task was to develop recommendations for improvements to the criminal justice system which would reflect the unique culture, values and traditions of Metis and Indian people.

Upon the invitation of Chairperson Judge Pat Linn, members of my staff appeared before the Committee to explain our role in the justice system.

My staff told the Committee that the Ombudsman has jurisdiction over various parts of the justice system, including the Saskatchewan Police Commission, the Legal Aid Commission, the Department of Justice and the Department of Social Services. They were able to provide the Committee with several examples of administrative unfairness in each area.

For the most part, the complaints we receive, especially from within the correctional institutions, concern the exercise of discretion. Decisions to charge inmates with institutional offences, decisions regarding sanctions for breach of institutional rules, denials of temporary absence applications or conditional releases, visiting and security status/placement are all areas where discretion is exercised. The Committee was advised that, upon receipt of a complaint, the Ombudsman's office will conduct an impartial investigation and render an independent conclusion. If the conclusion supports the complainant the Ombudsman will recommend a resolution.

One area of interest to the Committee was accessibility to our service, especially for those people incarcerated or otherwise detained. Staff told the Committee that inmates have direct and unrestricted access to my office by telephone or in writing. Correspondence to or from my office is not opened by correctional officials. In addition, my investigative staff are readily available for personal discussion should it be requested.

PUBLIC OUTREACH

Communication is critical to the Office of the Ombudsman. To provide effective service we must communicate with the general public, not only to encourage use but to educate the public on how to obtain fair and consistent services from the government.

Our service is especially important to the vulnerable in our society, those people with the least available resources and the highest degree of dependency upon government departments or agencies. In an attempt to reach these people, we are developing a project to be initiated from my Saskatoon office. The project identifies four northern centres — North Battleford, Meadow Lake, Prince Albert and La Ronge — and the more centrally located city of Saskatoon. The intent is to identify and contact as many local community service groups as possible to provide them with information on how we can be of assistance to their clients. As these are the professionals who are in daily contact with our target group we felt they were in the best position to make referrals.

BUDGET

The following table shows the approved budget for the 1991-92 financial year with comparisons from preceding years, and is presented for the information of members of the Legislature.

	1989-90	1990-91	1991-92
Salaries	$555,800	$555,800	$598,400
Other Expenses	166,500	150,300	161,800
TOTALS	$722,300	$706,100	$760,200

The above table provides the breakdown as printed in the "Blue Book" when the expenditure estimates are published. However, prior to year's end, the Minister of Finance asked my office to target a reduction of $10,000 in my total expenditures during the 4th quarter as part of government's overall expenditure reduction exercise.

Due to the absence of one of my senior staff members on long term disability and through careful scrutiny of expenditures, I was able to comply with the requested reduction. Expenditures for 1991-92 should be $750,200. To accomplish this reduction, I was forced to delay the replacement of outdated office equipment and to defer any purchase of computer equipment. Currently my office only has one computer serving a total of 13 staff in two locations! This urgent need will be presented to the Legislature in my budget request for 1992-93.

STAFF

In addition to the usual high volume of complaints, my staff had to deal with the loss of two of my senior staff members.

On June 7, 1991, Mr. Gil Thomson, Assistant to the Ombudsman in Saskatoon, passed away after a lengthy, courageous battle with cancer. Mr. Thomson commenced his employment with the Saskatchewan Ombudsman in January, 1974, as an investigator in the Regina office. He assumed responsibility for the office in Saskatoon when it opened in 1975, and served as Assistant to the Ombudsman for three separate Ombudsmen. Gil's extensive investigative experience, his attention to detail and his personal concern for his staff made him an extremely valued member of my staff.

In August, 1991, Mr. Earl McKeen, Assistant to the Ombudsman in Regina, commenced a period of sick leave as a result of long term illness. Mr. McKeen was not able to return to work by year end and commenced long term disability in January, 1992 which will likely continue to his eventual retirement at age 65. Mr. McKeen commenced employment as an investigator in my Regina office. He became Chief Investigator in July,

1982 and Assistant to the Ombudsman in September of 1987. Mr. McKeen brought to the office a wealth of investigative experience and was eager to share his knowledge and skills with fellow staff members. Earl's humour and his artistic talents will be sadly missed by all staff.

The loss of these two senior staff members has necessitated much realignment within both of my offices. This realignment has been made even more difficult by the continued refusal of the Public Service Commission to allow the filling of vacant positions on a permanent basis. My remaining staff have persevered and shown their dedication and flexibility to ensure the quality of work within the office does not diminish. Additionally, I have been fortunate to recruit two excellent intake officers on a temporary basis, Ms. Arlene Harris and Mr. Frank Munroe. I wish to personally thank each member of my staff for their understanding and cooperation in these difficult times.

REGINA OFFICE

Gordon K. Mayer	Solicitor to the Ombudsman
Murray Knoll	(Acting) Assistant to the Ombudsman
Roy Hodsman	Investigator
Carol Spencer	(Acting) Investigator
Arlene Harris	Intake Officer (Temporary)
Debra Trembley	Executive Secretary
Myrna Lapchuk	Secretary (Temporary)

SASKATOON

Glenda Cooney	(Acting) Assistant to the Ombudsman
Joni Sereda	Investigator
Laura Cook	(Acting) Investigator
Frank Munroe	Intake Officer (Temporary)
Joyce Strate	Secretary

PART II

CASE SUMMARIES

INTAKE OFFICER SUMMARIES

PART II
CASE SUMMARIES
Intake Officer Case Summaries

I have, in past years, indicated the valuable contribution of my intake officers.

While their primary function is to receive complaints, the process of initial inquiry does sometimes lead to a resolution of the problem without the need for assignment to an investigator.

The following is a small sample of the kinds of complaints they deal with on a regular basis.

JUSTICE

File No. 91-111.1.04

Mr. M. contacted my Saskatoon Office to complain about the Department's refusal to reimburse him for mileage expenses that he had incurred when he made a round trip from Langenburg to Saskatoon to appear as a Crown witness in a criminal trial.

Soon after the trial, he contacted the Crown Prosecutor's Office regarding reimbursement for his travel costs. A couple of months later, he was told he was ineligible because he did not obtain approval from the Crown prior to the court date.

Mr. M. explained to my intake officer that when he was subpoenaed some six months before the trial, he did not know he would be working out of town so did not report ahead of time. At the request of my intake officer, Mr. M. provided a letter from his former employer confirming his presence at Langenburg at the time. The letter was forwarded to the Crown Prosecutor's Office and Mr. M. received the reimbursement a month later.

File No. 91-111.7.1-08

An inmate of a Saskatchewan correctional centre wanted to testify at a coroner's inquest. An inquest had been ordered following an apparent suicide at the correctional centre. The inmate did not know how to arrange an appearance before the inquest. Before my office could respond to his complaint, the inmate was transferred to a federal penitentiary. We contacted him there, and with the assistance of the penitentiary officials, R.C.M.P. and John Howard Society, arrangements were made for him to testify at the inquest.

File No. 91-111.7.1-52

The Department of Justice agreed to immunize certain employees of a community training residence against Hepatitis B. Management, clerical and kitchen workers were not to be part of the immunization program. A representative of these workers complained that given their circumstances they could be exposed to bodily fluids of inmates with the disease. We referred the complainant to a toxicologist at the Occupational Health and Safety Branch of the Department of Human Resources, Labour and Employment. The toxicologist advised Justice that there was some risk to these employees from blood and contaminated body fluids from inmates with Hepatitis B. Our complainants subsequently reported that they were offered Hepatitis B vaccine and considered their complaint resolved.

File No. 91-111.7.1-100

An inmate of a Saskatchewan correctional centre complained that he had been placed in segregation and had forfeited 10 days remission time. He suggested that both decisions were unfair. My intake officer informed him of the appeal process available within the correctional centre and suggested he appeal these decisions before we would undertake an investigation. The inmate did appeal. The Director upheld the decision to place him in segregation, but suspended the lost remission time pending good behaviour. The inmate was satisfied with the Director's decision.

File No. 91-111.7.1-101

An inmate of a Saskatchewan correctional centre complained that inmates were subject to remarks from a corrections worker that were persistent and included sexual innuendo. He was given information about the appeal process available to inmates and advised to appeal his complaint at the correctional centre. He declined, stating he was concerned that if he used this process the corrections worker might identify him. He requested a meeting with an Ombudsman investigator to discuss his complaint. After a meeting between he and an investigator, the complaint was referred to the Director of the correctional centre. The Director subsequently reviewed it and resolved it by taking it up in general terms with his staff in order to protect the anonymity of the inmate. There were no further complaints.

File No. 91-111.7.2-11

Mr. B., an inmate at a correctional centre sustained an injury to his finger while at his work placement. He complained to my office about inadequate information from correctional centre staff as to his entitlement as an injured worker.

Our preliminary inquiry with correctional centre staff revealed that there was no provincial or institutional policy that provided information to either staff or the injured inmate/worker.

Subsequent contact with the Department resulted in a new divisional directive being drawn up which would assist all correctional centre staff to provide the relevant information.

I was most pleased with the speedy response received from the Department's officials.

SASKATCHEWAN ENERGY CORPORATION

File No. 91-416-21

This individual contacted our office as Sask Energy had disconnected their heat. Before re-connecting, the Corporation wanted the overdue bill paid in full plus interest, a security deposit and a re-connect fee. The complainant said he didn't have the money and his children were sick and needed heat.

When we spoke to the Corporation, they told us that the account was 5 months overdue and that our complainant had made 4 previous arrangements to pay the bill but had not carried through.

Despite the fact that the individual had not lived up to prior arrangements to pay his bill, Sask Energy, after some coaxing by my intake officer, agreed to a further re-payment scheme. My intake officer communicated this to our complainant.

SASKATCHEWAN GOVERNMENT INSURANCE

File No. 91-408.2-98

A young man, who had just recently graduated from high school, started a summer job. He saved enough money to purchase a 1976 Nova Super Sport. On pay days, he would buy extras for his car and finally his prized possession was in mint condition. One morning on his way to work, another driver ran a red light and smashed into the side of the 1976 Nova. The Nova was a write-off and SGI offered only $450 to the young man for the car.

The young man was very disappointed with SGI's offer. Our office suggested he get three appraisals for his Nova from different car dealerships and that he verify the work his mechanic had recently done to his car by submitting receipts to SGI.

This was done. He sent in the mechanic's bills and the three dealership estimates. One week later the young man had happily accepted SGI's offer of $1,500.

SASKATCHEWAN POWER CORPORATION

File No. 91-417-34

This couple contacted our office, upset with Saskatchewan Power's collection methods. They had an outstanding power bill, which they were attempting to pay as best they could. The husband had been recently laid off and was awaiting unemployment benefits. The wife worked and was paid at month's end. In spite of their efforts, they said that Sask Power would phone and even visited his wife's work place in an attempt to collect the bill.

My intake officer suggested they write Sask Power, asking that they not call or visit his wife's work place. She also suggested that a specific dollar commitment be made on the outstanding bill. If Sask Power refused to cooperate or accept this payment schedule, we asked them to let us know. Nothing further was heard from this couple.

SASKATCHEWAN TELECOMMUNICATIONS

File No. 91-413-41

Mrs. B. contacted Sask Tel and requested a new unlisted number. She requested this new number for personal reasons. In July, when Sask Tel's new telephone books were released to the public, Mrs. B.'s unlisted phone number was in the new phone book!

She immediately contacted Sask Tel and they were reluctant to rectify their error. She contacted our office. We in turn contacted Sask Tel.

Mrs. B. called our office to happily tell us that Sask Tel had given her a new unlisted phone number and had written her an apology.

COMPLAINTS OUT OF JURISDICTION

While my jurisdiction only extends to agencies and departments of the provincial government, my office literally receives thousands of calls from people concerning complaints or problems that they are experiencing with non-provincial agencies or departments. We try as best we can to provide some measure of assistance to these people. Here are two examples of where my intake officers were able to provide some assistance to persons who were having difficulties with the federal government.

HEALTH AND WELFARE CANADA

A physician referred a disabled patient whose Canada Disability benefits had been terminated. The patient was a former employee of a Saskatchewan crown corporation.

My intake officer helped him collect medical information from his previous employer and assisted him in the preparation of an appeal to Health and Welfare Canada.

He subsequently presented his appeal and reported that his disability benefits had been reinstated.

HEALTH AND WELFARE CANADA

A woman contacted my office as she was having some difficulty in collecting the necessary information to apply for a survivor's benefit from Health and Welfare Canada. My intake officer helped her collect information from a number of federal and provincial agencies to assist her in completing the application form. She subsequently applied and was considered eligible and received the survivor's benefits.

PART III

CASE SUMMARIES

GENERAL SUMMARIES

PART III
CASE SUMMARIES
General Summaries

JUSTICE

File No. 111.7.1-38

The complainant's application to the Regina Correctional Centre for a temporary leave of absence to attend his mother's funeral was rejected. The complainant was distraught and asked us to investigate.

Our investigation revealed that the complainant was serving time for a conviction of assault with a weapon on his father. He also had five other assault convictions on his record. While serving previous sentences he had once escaped and once gone unlawfully at large. During his current sentence, he had not taken advantage of institutional programs, such as, aggression control, alcoholics anonymous, and the addiction education program. He had also received six discipline charges. The response from the community where the funeral was to be held was very negative. Furthermore, the father would be present at the funeral, which was to be held in a remote location and involved a long journey.

Although we sympathized with the complainant's anger and frustration at not being allowed to attend his mother's funeral, we concluded that the Centre's decision was the right one. The complainant's violent record, his unacceptable institutional performance, and his past escapes, together with the fact that the victim of his assault would be at the funeral, and the funeral was to be held in a remote and isolated community, presented an unacceptably high risk!

File No. 111.7.1-59

Our complainant asked us to investigate the Regina Correctional Centre's decision to cancel 15 days of earned remission because of his failure to abide by the conditions attached to his conditional early release.

A note of explanation is in order. Under the Conditional Early Release Program, inmates who have shown good behaviour and present a very low security risk are eligible for a conditional early release of up to 60 days. The objective of the program is to "assist sentenced inmates in their successful integration into the community by facilitating access to family contacts, education, training and employment opportunities, by allowing selected minimum security inmates to serve the latter portion of their sentence in the

community on a rehabilitative temporary absence". Inmates will also be released under this program to take advantage of treatment opportunities. While on the early release program inmates are supervised by various authorities. Under the Earned Remission Program, inmates who apply themselves industriously can earn a reduction in their sentence equal to one-third of their sentence. Earned remission is subject to forfeiture for misconduct.

Our complainant was granted a conditional early release in April, 1991. He was to report to the Community Training Residence on May 7, the day before his sentence ended. Not only did he not report, but he also changed residences without notifying anyone and he was charged with theft under $1,000. All three acts were violations of his conditional early release.

On May 9, the Community Training Residence notified the Correctional Centre that the complainant had failed to report to the Community Training Residence and had also failed to report his change in residence. The Community Training Residence was not aware that the complainant had been charged with theft. Since the complainant's release date was May 8, no action was taken.

The complainant was convicted of the theft charge and returned to the Correctional Centre on June 28. On July 2, he was charged with failing to abide by the conditions of his April conditional early release and ended up losing 15 days earned remission.

We concluded that although the complainant had violated the conditions of his early release, the sentence to which the early release applied had been served. It was, therefore, most unfair to expect the complainant to answer to discipline charges for that violation during a later sentence. We recommended that the Correctional Centre return the 15 days lost remission.

The Correctional Centre advised us that the 15 days would be re-credited. Apparently, because the inmate had been returned to the Centre so soon after his release, the Discipline Panel which heard the charge against the complainant did not realize that the complainant was serving a new and unrelated sentence.

File No. 91-111.7.1-64

In Saskatchewan, each of the major provincial correctional centres has a Family Visiting Unit, which is a private home-like setting, within or adjacent to the correctional centre, designed to accommodate visits between inmates and their families. According to Corrections' policy, "the primary objectives

of the Family Visiting Units are to assist inmates in maintaining family relationships and to reduce some of the negative inter-personal tensions resulting from incarceration. Unit visits contribute to these objectives by providing opportunities for longer and more meaningful contacts between inmates and their families than are possible in other forms of institutional visiting".

Our complainant asked us to review the Regina Correctional Centre's decision to deny his application for a visit with his common-law wife in the Family Visiting Unit.

Our investigation revealed that the complainant's offenses were driving while disqualified, driving while impaired, failing to appear in court, and assault. The assault was committed against his common-law wife. He was admitted to the Regina Correctional Centre in April, 1991 and applied for the Family Visiting Unit two months later. The Centre rejected his application solely because he was serving time for an assault on his common-law wife. His appeal was unsuccessful.

According to the complainant's file at the Correctional Centre, he was a cooperative and quiet inmate, who presented a very low security risk. He had no record of violence except the assault on his common-law wife. He was primarily a non-violent offender with 25 alcohol related charges dating back to 1963.

Although the chance of the complainant repeating the assault on his common-law wife seemed small, I concluded that it would have been irresponsible for the Centre to take any chance at all, especially so soon after the complainant had been admitted.

I advised the complainant that I would be more supportive of his application if it were made later on in his sentence after he had time to show a commitment to rehabilitate himself.

PARKS AND RENEWABLE RESOURCES

File No. 91-112.1-06

Mr. P. was an independent gravel operator. He applied to the Department of Energy, Mines and Resources for a quarry exploration permit on a substantial area of land. Three potential gravel deposit sites were identified. Application was then made for a work permit from Saskatchewan Parks and Renewable Resources. The sites were approved by the conservation officer and the work permit granted.

The site closest in proximity was chosen and a substantial investment was made to develop the site as per government specifications. At no time was Mr. P. advised that this site was subject to forestry claims, trapper's rights, commercial conflicts, treaty rights, or any other condition which precluded a quarry disposition.

Upon applying to Saskatchewan Parks and Renewable Resources for the quarry surface lease he was advised that the site he had invested his time and money in was unacceptable due to a standing forest claim, traffic safety concerns and a conflict with an existing commercial lease disposition.

We argued that the reasons for rejecting Mr. P.'s application were unfair because he was allowed to make a significant investment without being apprised of the rules of the game, the forestry potential in the immediate vicinity of the quarry disposition was virtually non-existent, traffic safety concerns could be met by adequate set backs, the boundaries were negotiable and the spacing guidelines were simply that, guidelines. With natural resources it is impossible to dictate location.

Of paramount concern to the Department was the existence of a commercial outfitting lease located within the minimum spacing guidelines. The intent of the guideline was to prevent conflicting commercial operations conducting business in close proximity. As conflict between a gravel disposition and a remote outfitter camp which operates seasonally appeared to be non-existent, we argued that a strict application of the guideline was not reasonable. This, together with the fact that the area contained examples of other leases that had violated the spacing guideline, saw Mr. P. granted the opportunity to secure a lease for the site in question.

Saskatchewan Parks and Renewable Resources have undertaken to inform prospective quarry operators of possible restrictions in order that they may make informed choices before they proceed to incur costs.

PUBLIC EMPLOYEES' BENEFITS AGENCY

File No. 89-11000-40-04

In June of 1989 my office was approached by a woman who had elected to accept an Early Retirement Program from the Government of Saskatchewan approximately two years earlier. The essence of her complaint was the reduction of her retirement allowance due to integration with the Canada Pension Plan prior to age 65. Any written information which had been provided to this client prior to her election to retire had indicated that there would be a reduction on the receipt of Canada Pension

Plan Benefits at age 65. The client had pursued this problem continuously since her retirement and had been referred to our office by the Honourable Gary Lane the Minister in Charge of the Public Employees' Benefits Agency (PEBA).

Our investigation confirmed that the client had been provided with a personalized letter which was quite specific:

> "Because our pension plan is integrated with CPP, your basic allowance will be reduced at age 65."

Similarly, various computer printouts of the woman's entitlement showed a deduction due to CPP benefits at age 65 (not before). I should point out that when the Early Retirement Program was offered to employees of the Government of Saskatchewan (March, 1987) this woman was receiving long term disability benefits from the Saskatchewan Government Employee's Union (SGEU). Similarly, she was also receiving benefits under the Canada Disability Plan (CDP). By choosing to take the Early Retirement Program, this client would no longer be eligible for long term disability benefits which to that point had been non taxable.

In discussing the details of the Early Retirement Program with officials of PEBA, they explained that the program was initially designed only for "active" employees. People on definite leave or on disability benefits were not considered eligible. Thus, all of the literature concerning the Early Retirement Program plus the computer programs which were designed to project retirement allowances were based on the assumption that the employee was an "active" employee and not one on definite leave or disability. A short time after the initial announcement, this Early Retirement Program, was expanded to include those persons who were on definite leave or disability. This expansion made our particular client eligible to apply.

The difficulty with this situation was that all of the literature provided to the client was based upon her presumed status as an active employee. This definition would have excluded any person who was already receiving any disability pension or any benefits from the Canada Disability Plan. Therefore, information suggesting that her pension would be reduced due to integration with the Canada Pension Plan at age 65 would have been correct. But, since this client was already in receipt of a Canada Disability Pension, the literature should have told her that the reduction would be immediate. Had this information been provided to this client in advance of her retirement, she would probably have chosen not to accept the Early Retirement Program and instead remained on long term disability benefits where all funds received were non taxable.

The Public Employees' Benefits Agency did hold private meetings with individual employees. They were confident that the correct information had been provided verbally to this client but conceded that all written information had shown an improper calculation of her retirement allowance. For her part, the woman denied having received any advance notice of any reduction prior to age 65. While officials at PEBA were sympathetic to this woman's predicament, they insisted that she was being treated in accordance with the legislation which requires a reduction in the retirement allowance due to integration with the Canada Pension Plan.

During the investigation, officials at SGEU suggested there may be some potential for a return to the status quo. Consequently, my office initially made "findings only" against the Public Employees' Benefits Agency when our investigation was completed in May, 1990. Meanwhile, we encouraged the Saskatchewan Government Employee's Union to explore any opportunity for accepting this client back onto the Long Term Disability Plan.

It was several months before we received an official response from the SGEU. Unfortunately, they were not prepared to take the client back on long term disability.

At this stage, my office concluded that the only way to obtain a solution would be to make a formal recommendation to the Public Employees' Benefits Agency, through the Department of Finance. This formal recommendation was provided in November, 1990.

By January, 1991, the Deputy Minister of Finance noted that the Human Rights Commission had underway a similar investigation involving another superannuate. It was suggested that we await the findings of the Human Rights Commission before taking a final position.

We then spoke to Human Rights Commission to determine the precise nature of their investigation. We subsequently determined that while there were some similarities there were very distinct differences.

In April, 1991, our office advised the Department of Finance that we considered the two complaints to be quite distinguishable. We therefore once again requested that payment be made to our client, representing the amount of funds which had been promised to her (without deducting any Canada Disability Plan benefits prior to age 65) at the time she made her decision to retire. Within approximately two weeks, we received confirmation that Saskatchewan Finance was proceeding with a payment of approximately $9,700 to our client in accordance with our recommendation.

Although the time involved in securing a remedy in this case was lengthy, the outcome was successful. Our client had now received the benefits which she had anticipated when she made her election to accept the Early Retirement Program.

RENT APPEAL COMMISSION

File No. 91-111.3-03

This complaint involved the Saskatchewan Rent Appeal Commission.

Investigation confirmed that the tenant had serious concerns about the adequacy of his rental accommodations. He listed problems with locks on doors that were broken and unworkable, a loose toilet bowl, a bathroom needing tile, broken bedroom windows, cigarette burns in a bedroom rug, ants and other insects in the home plus many more minor deficiencies. The tenant advised that the landlord had made a verbal handshake agreement to make these repairs prior to the tenant moving into the accommodations.

The Residential Tenancies Act sets out various statutory rights and obligations of both landlords and tenants. Landlords clearly have statutory obligations to maintain and repair their premises, however tenants cannot use what are described as self-help remedies to enforce those obligations.

In this instance rather than using those legal mechanisms which could have terminated the tenancy agreement, the tenant simply left as the landlord had not made the promised repairs. The landlord, not having received the proper notice as required by the **Act**, now had an enforceable claim against the tenant.

The Order made by the Rent Appeal Commission, while based on the legislation, expressed some sympathy for the tenant. It read in part:

> "... A tenant cannot unilaterally terminate a tenancy agreement. The tenant, alleging dissatisfaction with various conditions, mainly relating to security, could have sought an order from the Office of the Rentalsman to terminate the tenancy. Upon application to the Office of the Rentalsman, an investigation would have been done to determine if there was sufficient reason to terminate the tenancy. As this procedure was not followed, the Commission finds the tenant responsible for the rent arrears for August and September 1990, as the premises were not re-rented in September."

This was a most unsatisfactory situation for our complainant. The tenant only occupied the premises for three weeks and was required to pay two full months of rent. Additionally, some of his property had been stolen during that period of time. The tenant had not made payment to the landlord and consequently his wages were garnisheed until the total amount of $600 was obtained by the landlord.

My office was sympathetic to the tenant's problems, but at the same time, had to consider the appropriateness of the decision by the Rent Appeal Commission as it related to the facts of the case and the legislation. The fact that this tenant was unaware of his right or opportunity to complain to the Rentalsman did not provide sufficient reason for the Commission to make a ruling in favour of the tenant. This was both a frustrating and costly lesson for our tenant, who is now more familiar with the legislation and his rights as a tenant.

My office concluded this file as an unsubstantiated complaint against the Rent Appeal Commission.

SASKATCHEWAN CROP INSURANCE CORPORATION

File No. 91-404-04

On February 12, 1991, we received a letter outlining two problems that this complainant was having with the Saskatchewan Crop Insurance Corporation (S.C.I.C.). The first problem concerned the cancellation of a livestock grazing contract. My complainant was concerned that S.C.I.C. had not cancelled the contract as she had received no acknowledgment. The second problem concerned an incorrect yield loss claim on oats. Repeated phone calls had been to no avail.

This investigation was assigned to a member of my staff who regularly deals with crop insurance issues. The investigator already had a pre-arranged meeting with senior officials at Saskatchewan Crop Insurance in Melville on February 25, 1991, and therefore added this complaint to the list of files to be reviewed.

Upon review, S.C.I.C. officials agreed that the allegation made by my complainant was accurate and indicated a cheque had been issued on February 21, 1991, in the amount of $1,014.15.

My investigator subsequently confirmed that the cheque had been received and was for the correct amount.

Although this complainant was frustrated with the entire process, at least her complaint was resolved. My investigator encouraged written enquiries in the future.

SASKATCHEWAN GOVERNMENT INSURANCE

File No. 91-408.1-06

The complainant applied to SGI for a collections agent's bond in March 1991. He needed the bond so he could start work with a local collection service. SGI rejected his application on the basis that it did not meet underwriting requirements. The complainant's efforts to get a more detailed response were fruitless.

The Office of the Ombudsman has always held that applicants for licences, permits, etc., are entitled to know the reasons for a rejection, and SGI had agreed in the past to provide applicants with reasons provided that to do so would not expose the Corporation to accusations of discrimination or libel. We wanted to know why, in this case, SGI was reluctant to provide more detailed reasons than "does not meet underwriting requirements".

Our investigation revealed that SGI's denial was based on the complainant's criminal record. The complainant had been convicted of theft in 1980 and 1981 and assault in 1984. The complainant had provided this information on his application, but failed to disclose that as a result of assault charges in 1991, he was restricted from owning or possessing a firearm until 1994. The assault charges were stayed.

We advised the complainant to apply elsewhere for a bond, since another company might assess the risk differently. The complainant followed our advice only to be rejected by another insurer.

After reviewing the relevant facts, we concluded that SGI had good reason to decline the complainant's application, but we believed that he was entitled to an explanation.

We asked SGI why it had not provided the complainant with reasons for the denial. The Corporation replied that the complainant was fully aware of his charges and convictions and therefore should not need an explanation for a bonding company's rejection of his application.

We did not wholly agree with SGI's position. The fact that the complainant was aware of his charges and convictions did not mean that he was aware of their significance vis-a-vis SGI's underwriting criteria. Nevertheless, we

could not conclude that SGI's position was unreasonable. We advised the Corporation that we would be closing the file.

Although, we failed to persuade the Corporation to provide reasons for its denial, in the end, the complainant had come to understand that his application was rejected because of his criminal record.

File No. 91-408.2-06

The complainant's house, which was located on a small lot in a low-income area of the city, was destroyed by fire in June, 1990. At the time, his house was insured for $48,000 and his belongings were insured for $28,000. SGI agreed to pay the actual cash value for the house, which was $28,500, and if the complainant rebuilt on the same lot, SGI agreed to pay the balance of the insured value of the home. SGI also agreed to pay $20,000 for the contents destroyed in the fire. And if the complainant replaced his contents with like kind and quality, SGI agreed to pay the difference between the initial settlement and the cost of replacement up to a maximum of $28,000.

The complainant claimed the $28,500 actual cash value that SGI had placed on the house was far below its market value. He claimed he paid $39,000 for the house and in the latter part of the 1980's had approximately $10,000 in renovations done, but the receipts were lost in the fire. He said he could not afford to rebuild and he believed that if he signed a release he would be losing $19,500 ($48,000 - $28,500).

We confirmed that the house had been appraised by a qualified appraiser, but we discovered that it had originally been valued at $28,000. SGI had agreed, at the request of the complainant's lawyer, to raise the appraised value to $28,500, which was the amount owing on the mortgage. We also discovered that the complainant's potential loss if he did not rebuild would be less than he thought, since if he accepted a cash settlement for the house, he would still retain ownership of the lot, which was valued at approximately $5,000.

SGI asked for bids to repair the house, but on the advice of the winning bidder decided that the cost of repairs would exceed the amount of insurance. With the consent of the complainant, the house was demolished in January, 1991.

Our complainant's best option was to have his house rebuilt, but owing to his personal circumstances in the years immediately prior to the fire, he did not qualify for a mortgage. According to SGI policy, the complainant had to have his house repaired or rebuilt by June, 1991, or else he would have to

accept actual cash value. This put the complainant in a very awkward position. If he did not rebuild the house he would lose approximately $15,000 and if he did rebuild he would likely never recover the cost of rebuilding, since there would be little or no market for a new house on a small lot in an older, low-income area of the city. We explained the complainant's dilemma to SGI. The Corporation understood the problem, but its policy was clear — if the house was to be rebuilt it would have to be rebuilt on the same lot. It did, however, offer that if the complainant submitted a blueprint for a new house before June, 1991, the Corporation would consider that fulfilment of its requirement that the house be repaired or rebuilt within one year. This would give the complainant additional time to arrange for financing. Of course the Corporation wanted it understood that the complainant could not take forever to arrange financing, although it would not commit to a deadline. We assumed a year would be reasonable.

We advised the complainant of SGI's offer and told him that everything considered, we believed SGI had shown a sincere willingness to be as fair as possible. The complainant agreed.

File No. 91-408.2-07

Our complainant gave us the following account of the circumstances leading up to his complaint. In August, 1989 he moved to British Columbia to look for work. He kept his mailing address and his belongings at his former residence in Saskatchewan. On December 16, 1989, he was involved in a vehicle accident in British Columbia. Six days later he returned to Saskatchewan. While in Saskatchewan he purchased a package policy from a local insurance agent. His agent advised him that because he had kept his Saskatchewan mailing address and was storing some of his belongings at that address, he would be considered a Saskatchewan resident for insurance purposes. The complainant returned to British Columbia and on January 28, 1990, his partner was involved in an accident while driving the complainant's truck. On February 28, 1990, SGI advised the complainant that it was denying liability for loss or damage resulting from his January 28 accident, because according to British Columbia law, his truck should have been registered in British Columbia 30 days after he took up residence there. Two months later, SGI advised the complainant that it was denying liability for loss or damage resulting from his December 16 accident for the same reason.

Our complainant had a number of complaints. He contended that if SGI had advised him that it was not going to accept liability for his December 16 accident prior to January 28, rather than four months after the accident, he could have purchased proper coverage and at least have avoided the

January 28 loss. He also did not believe the refund he received for his plates was calculated fairly. After he turned in his Saskatchewan license plates, he received a refund based on the number of months elapsed between purchase and return. He believed his refund should have been based on the number of months elapsed between purchase and the month the plates became void, which would have been September, 1989. He encountered the same problem when he cancelled his package policy in August, 1990. In this last instance, I told him I thought his complaint would best be directed toward the agent rather than SGI.

Damages for which the complainant was responsible totalled approximately $6,500. The complainant was liable to the Insurance Corporation of British Columbia, which had paid for the damages, in the full amount.

According to SGI's inquiry report on the December 16 accident, the complainant attended a claims office on December 28 to report the accident. He did not indicate to the adjuster or in his written statement that he had been a resident of British Columbia since August, 1989, and he provided a Saskatchewan telephone number. On February 13, SGI received a letter from the Insurance Corporation of British Columbia notifying it that on January 28 the complainant had been involved in another accident with his truck. The adjuster in Saskatchewan called the phone number left by the complainant on December 28 and spoke to the complainant's mother. His mother stated that the complainant had been living in B.C. since August and that she was not expecting him to return for some time. This was apparently, the first indication that SGI had that the complainant was not a Saskatchewan resident.

In response to the complainant's protests that his agent had misled him, his agent stated in a letter to SGI that he had no recollection of discussing with the complainant the validity of Saskatchewan plates in B.C., and that if the complainant had questioned him, he would have advised him to register his vehicle in accordance with B.C. law.

The complainant's claims were somewhat suspect in light of the manner in which he renewed his plates for his truck. According to the December 16 accident inquiry report, he completed an amendment renewal form in August, 1989, to renew the Saskatchewan plates for his truck, which had been in storage in B.C. since April. He never mentioned the location of his truck at the time of completing the application.

In response to my request for a report, SGI wrote to us in March, 1991. The report explained that the reason the complainant was not notified of his breach of residence requirements after the December 16 accident was that

he had never indicated in his statement that he was not a Saskatchewan resident. In fact, he gave a Saskatchewan address and phone number. SGI did not learn of his residence until after the January 28 accident when the adjuster phoned his mother. The report went on to explain that the reason the refund on the complainant's plates was calculated from the date of receipt was because there were no instructions to the contrary, that is, no copy of SGI's denial letter or statement that he had a claim denied because of residency had been received. An adjustment in the refund was made and forwarded to the complainant. We were asked to direct any questions regarding the cancellation of his package policy to the complainant's local agent.

One of my investigators spoke to a senior official about the calculation of the refund on the package policy. His initial response was that the calculation was correct, but when the investigator told him that the refund on the complainant's plates had been calculated from the date they were deemed to be revoked, he decided that for the sake of consistency the package policy premium should be refunded in total. He said he would make the necessary arrangements with the agent.

We decided that the evidence clearly revealed that the complainant was in violation of the B.C. residency requirements for insurance coverage, and he therefore had no claim against SGI. We advised the complainant of his option to pursue his agent for damages if he was still convinced that he had been misled.

File No. 91-408.2-52

The complainant was involved in an automobile accident in British Columbia on November 20, 1989. He had relocated to British Columbia and kept his Saskatchewan license plates.

Saskatchewan Government Insurance (SGI) denied his request for coverage for the accident citing Section 14 of **The Automobile Accident Insurance Act** which provides as follows:

> "Section 14 Where a vehicle designated with an owner's certificate is operated in another province, state or country, where the vehicle is required by the law of that province, state or country to be registered or licensed in that province, state or country but is not so registered or licensed, that owner's certificate shall be deemed to have been revoked at the time of the commencement of such operation."

The legislation in British Columbia requires that a person relocating to British Columbia must purchase British Columbia license plates within 30 days of establishing residence. Exceptions are provided for students and members of the armed forces.

My complainant had confirmed, in his statement to the adjuster in British Columbia, that he had been living and working in British Columbia some 35 days prior to his accident, having established residence on October 15, 1989. As he ought to have obtained British Columbia license plates, the decision by SGI to deny him insurance coverage was proper.

Of some interest to me, was that after the accident in 1989, this complainant rather than buying British Columbia license plates, renewed his Saskatchewan plates in 1990. He continued during this time to have no coverage which was indeed a risky proposition. While the Saskatchewan plates may have been cheaper, they provided no insurance.

File No. 91-408.2-55

A letter of complaint was received stating that SGI had refused to provide insurance coverage to this family. The letter noted that a claim had been made for lost or stolen jewellery in March of 1989. Insurance coverage had been continued for both 1989 and 1990. Now in 1991, insurance was being denied, apparently due to the claim which was paid in 1989. Our complainants viewed this as most unfair.

Less than three weeks after we sent our notice letter, we received a response from the President. It read in part:

> "... I had the underwriters review this matter and am pleased to inform you that they are prepared to provide coverage on the property situated at ..."

Our complainants were informed of this change in position by SGI and they expressed their satisfaction with the prompt response.

File No. 91-408.2-85

Our complainant was involved in a motor vehicle accident. She was not at fault. She rented a vehicle while hers was being repaired. SGI had agreed to pay the rental fees for 4 days excluding gas and additional insurance. As the deductible on a rented vehicle was $1,500, (i.e. she could be responsible for the first $1,500 worth of damages should she be in an accident) our complainant purchased additional insurance. She contacted my office as she was upset that SGI would not pay for the additional insurance.

Upon contacting the Corporation, we learned that SGI had come to an agreement with the Car Rental Association of Saskatchewan reducing the "collision deductible waiver" to $500 which matched the license plate insurance. SGI also advised their auto extension policy was recently broadened to extend the same physical damage coverage (collision and upset) to rental vehicles. Hence, if the policy holder had extension coverage and had an accident with a rental vehicle, SGI Canada would pay all collision costs above the deductible of the extension policy.

The reason the Corporation would not pay for any additional insurance cost was that the extra insurance would put the claimant in a better position than if he only had plate insurance. The extra insurance would reduce the deductible on the rental vehicle to zero (for some policies).

Our concern in this case was that most claimants would feel "pressured" to purchase added insurance if they were not informed of the agreement between SGI and the Car Rental Association. While it was clear that our complainant had been advised about SGI limitations on coverage, she had not been provided information about the agreement to enable her to "shop around" and avoid any added insurance expenses on rental vehicles.

My staff pressed this point with the Corporation and by way of response we received a copy of the directive instructing all adjusters to inform their claimants about SGI's agreement with the Car Rental Association. I am confident this information will assist claimants to be better educated consumers.

File No. 90-26000-30-14

Mr. E.'s vehicle had been damaged in an accident in November, 1989 while being driven by his daughter. She was at fault for the accident.

Mr. E. contacted my office when SGI denied coverage for damages to his vehicle on the basis that his daughter was not properly licensed to operate a motor vehicle in Saskatchewan. Miss E. had been a resident of Saskatchewan for more than 90 days at the time of the accident. Consequently, SGI claimed she was required by law to have obtained a Saskatchewan license and her father, Mr. E., knew or ought to have known about this provision.

Mr. E. admitted to SGI that he gave his daughter permission to operate his vehicle knowing she had an Alberta driver's license. He also admitted (though later denied) that he spoke to his daughter about obtaining a Saskatchewan license. His daughter had previously resided in Alberta until

June, 1989 when she became unemployed, returned home and obtained part-time employment. However, she maintained an apartment and bank account in Alberta and regularly commuted there looking for a full-time job. Subsequently, she did return to full-time employment in Alberta. Our complainant felt that his daughter was a resident of Alberta and had a valid Alberta license.

SGI's legal view was that the daughter was a Saskatchewan resident as she had a job. Even if she maintained a residence in Alberta, she was required by law to have a Saskatchewan driver's license. The conclusion that the daughter had "dual residency" concerned me as it suggested she would be entitled equally to benefits from both provinces, but by law, this is not possible.

It was my view that the term residency must include the intention of the person involved, that is, a person doesn't lose his residency by a temporary, occasional or casual absence. Thus, I tentatively concluded that the daughter was a resident of Alberta, residing only temporarily with her father and intending to return to Alberta which she considered her home. Since Mr. E. knew his daughter returned to Alberta on a frequent basis, he had reasonable grounds to conclude her Alberta driver's license permitted her to drive in Saskatchewan for 90 days after returning home. On this basis, I made a tentative recommendation that SGI extend coverage to Mr. E. for damages to his vehicle.

SGI maintained their denial in response to my recommendation. They advised the daughter's income tax return indicated Saskatchewan was her resident province, that she never applied for Alberta hospitalization, and she had motivation for obtaining an Alberta driver's license because of a $100 surcharge on her Saskatchewan license. Therefore, their opinion as to her residency remained the same.

I made further representation to SGI in August, 1990. The crucial point raised in this case was whether Mr. E. knowingly permitted someone who was not properly licensed to operate his vehicle. I suggested that since the daughter was an adult, SGI could not automatically conclude the father would know of her hospitalization, her income tax return or her motivation for obtaining an Alberta license. The facts were that Mr. E. knew his daughter had an Alberta license and he believed it was valid because of her frequent trips to Alberta. Accordingly, I suggested the claim was unfairly denied.

SGI maintained their denial pointing out that Mr. E. knew or ought to have known his daughter required a Saskatchewan license after living in the province for more than 90 days.

Finally, I made a recommendation to the Minister in charge as follows: "Whether Miss E. was or was not a resident of Saskatchewan is not, in my view, the issue. Rather the question that needs to be answered is whether Mr. E. exercised the care necessary to afford him coverage." The debate that I had previously on this matter with SGI's lawyers demonstrated the complexity of defining residency. To suggest Mr. E. was capable of knowing the legal niceties of the word resident, thereby questioning his daughter's qualification to drive was expecting too much. From my view, Mr. E. knew his daughter had a valid Alberta license and her stay at home was temporary as she was looking for work in Alberta. Consequently, I felt he acted reasonably in allowing her to drive and recommended coverage be provided.

The Minister in this instance was not sympathetic. He maintained Mr. E.'s knowledge of his daughter's Alberta license and his request she obtain a Saskatchewan license was evidence that he did not act reasonably in allowing his daughter to drive and the denial was maintained.

Obviously, I was disappointed that I was not able to rectify this matter and closed my file.

File No. 90-26000-30-18

Our complainant, Ms. H., was the owner of a vehicle damaged in an accident in January, 1989. She had been a passenger at the time and the person operating the car did not possess a valid driver's license. He was not at fault for the accident. Ms. H. was injured and received settlement from SGI for her injuries. However, this settlement did not include damages to her vehicle.

Ms. H. contacted my office in January, 1990 as SGI denied her claim for damages to her vehicle stating that she had breached the statutory conditions of **The Automobile Accident Insurance Act** by permitting an unlicensed driver to operate her vehicle.

Ms. H. maintained that she was not aware that the driver did not possess a valid license as she had seen him drive often prior to the accident. Neither was she aware that he had been convicted of driving while disqualified as she was not with him at the time of the charges nor did he inform her about these convictions.

The statutory condition which SGI used to deny our complainant insurance has been interpreted by our courts in such a manner that the defendant (SGI) must prove something more than an unlicensed driver operated the

insured vehicle. In **Nichols vs. SGI** (1984) 5 WWR 349, the Saskatchewan Court of Queen's Bench held that an insured does not violate this condition "... if he acts prudently and reasonably as any other average person would have under the circumstances in allowing another person to drive his vehicle. Unless the insured knew or should have known that the driver did not have a valid operator's license or unless circumstances dictated that he make inquiries regarding the license, the statutory condition is not violated."

As it was my view that our complainant had little reason to suspect the driver was not licensed, I tentatively recommended in June, 1990 that the Corporation extend coverage.

The Corporation's President maintained the denial on the basis that our complainant cohabitated with the driver at the time of the accident and when he was convicted of driving while disqualified. Thus, the Corporation's solicitors were of the view that Ms. H. knew or ought to have known that his license was not valid.

Sworn statements provided to my office and to SGI by the driver were evidence to the effect that he had not advised our complainant about his disqualification, that she was not present when he was charged and convicted and that because he commuted to work prior to the accident, she had no reason to suspect that he had no license.

Therefore, I made further representation to the Minister in charge and was most pleased with the acceptance of the claim in March of 1991.

SASKATCHEWAN HOUSING CORPORATION

File No. 90-47000-10-07

Until March 5, 1990, residents of Saskatchewan who wanted to effect improvements to their principal residence could apply under the Government's Home Improvement Program for a matching grant of up to $1,500. The program was originally supposed to operate until August 31, 1991, but the Government decided to cancel it on March 5, 1990. There was some confusion around deadlines and procedures when the program ended and many people, for various reasons, discovered that their applications were no longer eligible. The following is one such case.

Our complainant applied for a matching grant from the Saskatchewan Housing Corporation in September, 1989. The Corporation approved the application toward the end of October for $900, one-half the stated cost of improvements.

The complainant made the improvements and mailed the original receipt for payment and a copy of her grant application to the Corporation.

When the program was cancelled, people who had outstanding commitments under the program continued to be eligible, provided the work was completed and the original invoices submitted by the close of business on April 30, 1990.

On March 20, the Corporation sent a letter to everyone with outstanding commitments. Our complainant did not receive the letter until May 3.

When the complainant received the letter, she realized something was wrong, so she contacted the Corporation, which told her that it had no record of ever having received her original invoice. She explained what had happened and offered to provide photocopies of the receipt, but the Corporation told her that she had missed the April 30 deadline and was no longer eligible for a matching grant.

Once we had confirmed that the improvements had in fact been made and been paid for, we asked the complainant why she did not contact the Corporation when her matching grant did not arrive for several months. She explained that she had also arranged for a home improvement loan through the Saskatchewan Housing Corporation and believed that the loan program and the matching grant program were somehow connected. She had assumed the Corporation was waiting for all the work to be completed under both the loan and grant program before it issued a matching grant cheque.

We also wondered why the March 20 letter did not arrive at the complainant's home until May 3. An examination of the envelope revealed that it was unstamped. This seemed to lend credibility to the complainant's story, but the Post Office explained to us that when it receives a batch of metered mail, such as the March 20 mailing, it does not check each envelope for postage. Consequently, it is not uncommon for someone to receive an unstamped envelope.

Although we were unable to fully corroborate the complainant's story, we concluded that it was plausible. We wrote to the Corporation and suggested that our complainant ought not to suffer a loss because of a misplaced letter. She had clearly done her best to abide by the requirements of the program and was being penalized because of a lost letter. We asked the Corporation to reconsider its denial of her application.

The Corporation maintained its position for the following reasons: 1) the rules governing the cancellation of the program stipulated that no grants

were to be paid unless all invoices were received by the Corporation by April 30; 2) it was the responsibility of the applicant to ensure that the Corporation received the invoices; 3) the rules governing the cancellation of the program were outlined in the Premier's March 5 television address, and the details of the announcement were part of an extensive television, radio and newspaper coverage; consequently the complainant should have been aware of the rules even if she did not receive the March 20 letter; and 4) the complainant ought to have contacted the Corporation when she did not receive a grant cheque within a few weeks after mailing her receipts.

We responded by explaining to the Corporation that the complainant had mistakenly assumed that her home improvement loan and the matching grant were somehow connected, and that she would not receive a matching grant cheque until all the work was completed. We also pointed out that since the complainant had assumed everything was all right, the announcements of the rules governing the program's cancellation were not relevant to her. It was not until May 3 when she received notification that she had an outstanding grant commitment that she realized that something was wrong. We concluded by stating that we believed that the Corporation's rigid adherence to the rules had produced an unduly harsh result for the complainant, who did virtually all she could in attempting to comply with the rules.

A short time later, we met with two executives from the Saskatchewan Housing Corporation to discuss the complainant's problem. While sympathetic to the complainant's problem, they made it clear that the Corporation would not be making an exception to the April 30 deadline.

We were not satisfied that the complainant was being dealt with fairly, so we exercised our option to make a formal recommendation to the Minister. The Minister referred our letter back to the president of the Saskatchewan Housing Corporation who reiterated the Corporation's insistence on adherence to the April 30 deadline. He added that the Corporation had enforced the rules governing the cancellation of the program strictly and consistently "to ensure that exceptions did not erode the chief intent of the termination, financial savings".

Since it was obvious that our recommendation was not going to be implemented, we discontinued negotiations. We then advised the complainant of Saskatchewan Housing's refusal to accept our recommendation and closed the file.

SASKATCHEWAN POWER CORPORATION

File No. 91-417-03

On February 13, 1991, we received a letter of complaint from a senior citizen in the northern portion of the province. The complaint concerned the cost of installing power to a lot purchased in 1984. The initial cost had been $2,500. At the time of installation, there was a verbal understanding that as each new cabin was connected, the owners who previously had power connected would receive a rebate, thus reducing their cost.

According to this complainant, present power installations cost $300. He had not received any rebate towards the cost of his own installation and therefore believed he had been treated unfairly by Saskatchewan Power Corporation.

My office provided formal notice of this complaint to the President of Sask Power on February 25, 1991. A response was received on March 28, 1991, indicating that the case had been reviewed. As a result, a refund was issued to our complainant in the amount of $1,997. Three days later, our complainant confirmed receipt of this cheque and expressed his gratitude for the promptness of the response.

SASKATCHEWAN TELECOMMUNICATIONS

File No. 90-25000-10-40

The complainant's business phone was not working properly from October 9 to November 8, 1990. The complainant believed he lost approximately $1,500 in revenues as a result. He refused to pay his October phone bill, which was $500, because he believed he did not get any service. Sask Tel offered to credit his account with $50, representing one month's rental charges, but insisted he pay the balance, $500 of which was for directory advertising.

Our investigation revealed the following. On October 12, 1990, someone phoned the complainant at his residence to inform him that he was unable to get through to his business phone. The information was reported to Sask Tel. The phone line was tested and found to be okay. The business continued to receive calls at about the same rate as before Sask Tel made the repairs. Some time later, someone else reported difficulty getting through to the business phone. Sask Tel concluded that the problem was "water in the lines" and fixed it, or so it thought. The problem continued. On November 8, Sask Tel discovered that the problem was a faulty circuit and made the required repairs. The problems stopped.

According to Article 14.1 d of Sask Tel's General Tariff, which appears in the front of the phone book, "Sask Tel, its employees, officers or agents shall not be liable to any person for damage, loss, injury, or death resulting from mistakes, omissions, interruptions, delays, errors, or defects in transmission, or failure or malfunction of any telecommunication service or equipment whether such service or equipment is wholly or partially provided by, or the responsibility of Sask Tel, or any other person, agency, carrier or supplier and whether any such mistake, omission, interruption, delay, error or defect in transmission or failure or malfunction occurs within or outside the province of Saskatchewan". This article has been supported by case law.

Despite this exclusionary clause, Article 13.2 states that "In cases where interruptions in service occur because of failure or malfunction of Sask Tel's equipment, Sask Tel shall, at its discretion and upon request, make a refund of charges proportionate to the length of interruption of the service, provided that such refund shall apply only to major interruptions of service and shall be computed only from the time Sask Tel is advised of the interruption."

Sask Tel's position in this matter was that the exclusionary clause was applicable and legally binding upon the subscriber. However, as always, it was prepared to consider some measure of compensation where warranted. It was on this basis that the offer of $50 was made.

We initially concluded that Sask Tel could have mitigated the complainant's loss of service if it had sent a repairman out sooner, and we asked Sask Tel for a response.

Sask Tel responded that each time it was contacted by the complainant to fix a problem it responded within 48 hours. It also contended that the delay was unavoidable because there was more than one problem with the phone and the associated malfunctions were intermittent, making it almost impossible to correct the problem on the first try. According to Sask Tel, in response to the first trouble call, the complainant's phone was tested and found to be working properly. After the second trouble call, Sask Tel identified the problem as water in the lines. Sask Tel did not discover the main problem until the third call, when they identified the source of the problem as a defective line card. Sask Tel regretted the delay but explained that multiple and intermittent problems usually result in just this sort of delay.

We decided that Sask Tel's position was reasonable and that no further compensation was warranted. Our complainant was not satisfied and intended to pursue the matter further.

SOCIAL SERVICES

File No. 89-23000-40-153

Our intake officers frequently provide advice and guidance to clients of the Department of Social Services who are in receipt of benefits under the Saskatchewan Assistance Plan (SAP). Financial matters can become quite complicated particularly when either the income or special needs of the client change on an irregular basis. If these clients approach our office seeking clarification about their entitlement, we frequently refer them back to the Department of Social Services for a written explanation of their entitlement. While cheque stubs are provided on a monthly basis, these stubs often are not sufficient to fully understand adjustments which may relate to a period of time two or three months earlier.

This particular case involved a single mother with one child residing in a Saskatchewan town. Her part-time earnings were insufficient to meet her monthly needs and therefore she was supplemented by the Saskatchewan Assistance Plan. As her income and child care costs fluctuated depending on her hours of work, numerous adjustments would be required to recognize both the fluctuating income and the expenses.

The matter became even more complicated when this single parent obtained a position in a job training program, sponsored by the Canada Employment Centre. A training allowance was provided, as was a babysitting allowance, but the two allowances combined still left some minimal eligibility for financial benefits under the Saskatchewan Assistance Plan.

Over a period of several weeks, this client, with the assistance of my intake officer, attempted to resolve an overpayment problem directly with the Department. Her efforts proved unsuccessful. She was directed to appeal. The appeals were finally held and the client, although partially successful, was still dissatisfied with the explanation which had been provided to her by the Department. The client still felt she had considerable eligibility, particularly as related to child care costs. She missed her opportunity to appeal to the Provincial Social Services Appeal Board and consequently my office agreed to commence an investigation.

The Social Services office responsible for this case was about 80 miles from the town in which the woman resided. The supervisor in this area had a reputation for being cooperative with members of my staff. He attempted to explain the woman's situation to the best of his ability. However, having reviewed this particular file in detail, and with the full cooperation of the Department's supervisor, my investigator could not fully understand all of the calculations completed by the Department. Similarly, the departmental supervisor was unable to explain all of the calculations!

In reviewing the departmental file, it was noted that several letters had been sent to this client at various points in time. Unfortunately, there was no regular statement on a monthly basis, outlining the various adjustments which were being made. On occasion, there would be as many as four or five different adjustments taking place in one month, some of them on a retroactive basis. It was not surprising that this particular client could not understand all of these calculations, particularly when my own senior investigator plus the supervisor from the Department could not explain them either.

I then took an approach which was somewhat unique. I requested that the Department conduct an audit of this client's entitlement over the entire benefit period involved. I further requested that a copy of the audit be provided to my office and the client, so that she would have an opportunity to provide any additional receipts for babysitting expenses, wages, etc. While recognizing that considerable time would be involved in such an audit, I stressed the need for the Department to communicate with its clients in a manner that the client could fully understand.

The Department did agree with my recommendation and provided the results of its audit by letter dated October 4, 1990. The net effect of this audit was to reduce a previously calculated overpayment of $1,409 to only $16.

This represented a significant improvement. When my staff provided the detailed calculations to the client, she suggested that there were still several areas of additional entitlement. My investigator requested that the client obtain receipts verifying certain expenditures, and in turn, provided these receipts to the Department of Social Services. This in turn resulted in a further request by my office for yet a second audit.

The Department agreed to further recalculations on this file and now decided that the client was entitled to an additional payment of $157.63. The overpayment had disappeared.

Again, this was an improvement but the client still expressed concerns. In particular, she did not believe that a decision rendered by the Local Appeal Committee with respect to her child care expenses had been implemented. Consequently my office once again requested the Department to review this file, paying particular attention to the previously noted decision of the Local Appeal Committee.

The third and final audit was completed by the Department in May, 1991. The third recalculation now resulted in a total additional payment to this client of $1,030. On this occasion, our client agreed that the recalculated amount was satisfactory and a cheque was processed by the Department in this amount.

Although the time required to resolve this complaint was extreme, the net result was the elimination of an overpayment of $1,409 and a net payment to the client of $1,030. There is no question that time spent by the departmental staff and my own investigative staff in reviewing these calculations was excessive. While it is true that the calculations involved were somewhat complex and were changing on a monthly basis, it was my view that lack of proper written instructions to the client, on a monthly basis, contributed to the overall problem.

Clients of the Department of Social Services are entitled to an accurate monthly statement of their benefits, provided in a manner that the **client** can understand. It is not sufficient to simply lump two or three adjustments together under the one heading of "adjustment". This case provided an excellent example of what can occur when these written explanations are not provided!

File No. 91-117.2-06

This complaint came from the grandmother of an infant child who was in the custody of the Department of Social Services in a foster home. The infant's mother (grandmother's daughter) had intended to place the infant for adoption and had been working with the Department of Social Services in seeking appropriate foster homes, even prior to the child's birth. However, only a few days after the child was born, the mother of the child committed suicide. The grandmother who approached my office, wanted the wishes of her daughter respected and therefore wanted the child placed in a foster home selected by her daughter prior to her death.

Initially, it was unclear as to the possible role which my office could play in an investigation of this nature. Consequently, our investigation was opened to determine the extent of our jurisdiction.

Our initial inquiries confirmed that the mother of the infant had been planning to place her child for adoption and had worked with the Department in trying to select an appropriate foster home. The child's mother died within approximately one week of the child's birth. Three days after the death of the child's mother, the alleged father of the child inquired about obtaining custody of the child. To that point in time, little had been heard from the father.

At this stage, both the child's grandmother and alleged father had obtained legal counsel and were seeking custody of the child. Proceedings under the **Family Services Act** had been stayed and the matter of the custody of the child was before the courts. Meanwhile, the Department was caring for

the child in a foster home, pending the outcome of the court proceedings. This difficult situation was even further complicated when the paternity of the child became an issue. There was a possibility that a second individual could have been the father and thus the courts requested blood tests be conducted to confirm the paternity of the child before proceeding with the custody issues.

My office does not have jurisdiction to investigate matters which are before the courts. Accordingly, my office discontinued investigation of this complaint. We assured our complainant, the grandmother, that the Department had little alternative but to let the matter proceed through the courts. We encouraged our complainant to consult with her solicitor.

File No. 91-117.2-17

In 1988 the Department of Social Services launched a foster parent training initiative and revamped the system for reimbursing foster parents. Skill Development fees were introduced to recognize additional training taken by foster parents.

A joint policy developed between the Department and the Foster Parents Association required that both parents of a foster home must participate in the training to be eligible for the Skill Development fee.

Our complainant had been fostering for many years and had taken the training. While legally married, she and her husband had been separated for many years. The Department refused to pay our complainant the Skill Development fee because her husband had not taken the training.

In my view, the Department knew that Mr. and Mrs. R. maintained separate residences for a number of years prior to the training initiatives. Mrs. R.'s home continued to be used and recognized as a valuable resource despite the fact that her husband lived separate and apart from her. Assessments of the home noted "... the fact that this home functions as a single parent family" and focused on Mrs. R.'s skills and abilities.

Tentatively, I concluded that since the Department had been well aware since 1984 that Mrs. R. was a single foster parent living apart from her husband, she ought to qualify for the Skill Development fee as any other single foster parent who had taken the training.

The Department's response was positive. They undertook to meet with Mrs. R. to clarify that she and her husband had separated and on this basis, would provide her a Skill Development fee.

PART IV

STATISTICS

PART IV

STATISTICS

MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1991

Aberdeen	2
Alameda	1
Abernethy	2
Arran	1
Asquith	3
Assiniboia	5
Balcarres	1
Balgonie	2
Battleford	4
Beatty	1
Big River	2
Biggar	1
Birsay	1
Bjorkdale	2
Broadview	3
Buffalo Narrows	4
Bulyea	1
Cabri	1
Candiac	2
Cando	2
Canora	3
Canwood	1
Carrot River	3
Codette	1
Consul	2
Creighton	4
Crutwell	2
Davidson	1
Debden	1
Delisle	1
Denare Beach	2
Dinsmore	1
Dorintosh	1
Duval	2
Edenwold	1
Elrose	2
Estevan	11
Fiske	1
Foam Lake	1
Fort Qu'Appelle	4
Grandora	1
Gull Lake	2
Handel	1
Herbert	1
Heward	1
Hudson Bay	6
Humboldt	1
Indian Head	7
Ituna	1
Jansen	2
Kamsack	2
Kelvington	1
Kindersley	6
La Loche	1
La Ronge	10
Lafleche	2
Lampman	2
Langham	2
Lanigan	1
Leader	1
Leask	1
Lebret	3
Leross	1
Leroy	1

Liebenthal	1
Lipton	2
Lloydminster	9
Loon Lake	1
Loreburn	2
Lucky Lake	1
Macklin	1
Macdowall	1
Maple Creek	2
Marcelin	1
Marengo	1
Margo	1
Marsden	1
Martensville	3
Maryfield	1
Mayfair	1
McLean	1
Meadow Lake	6
Melfort	4
Melville	4
Minton	1
Montmarte	1
Moose Jaw	50
Moosomin	4
Neilburg	1
Nipawin	8
North Battleford	24
Osage	1
Outlook	3
Oxbow	2
Paradise Hill	1
Pense	1
Pierceland	2
Pilot Butte	2
Porcupine Plain	3
Preeceville	2
Prince Albert	91
Prud'homme	1
Punnichy	1
Qu'Appelle	2
Radisson	1
Radville	1
Redvers	3
Regina	500
Regina Beach	1
Rose Valley	1
Rosetown	1
Rouleau	2
Sandy Bay	1
Saskatoon	405
Shaunavon	1
Shell Lake	1
Shellbrook	1
Sonningdale	1
Southey	1
Spalding	1
Speers	1
Spiritwood	1
Spruce Home	2
St. Gregor	1
St. Louis	1
St. Walburg	1
Stockholm	1
Strasbourg	1
Strongfield	1
Stump Lake	1
Sturgis	1
Swift Current	10
Tisdale	4
Tompkins	1
Turtleford	1
Tyvan	1
Unity	2
Vanguard	1
Vanscoy	2
Vonda	1

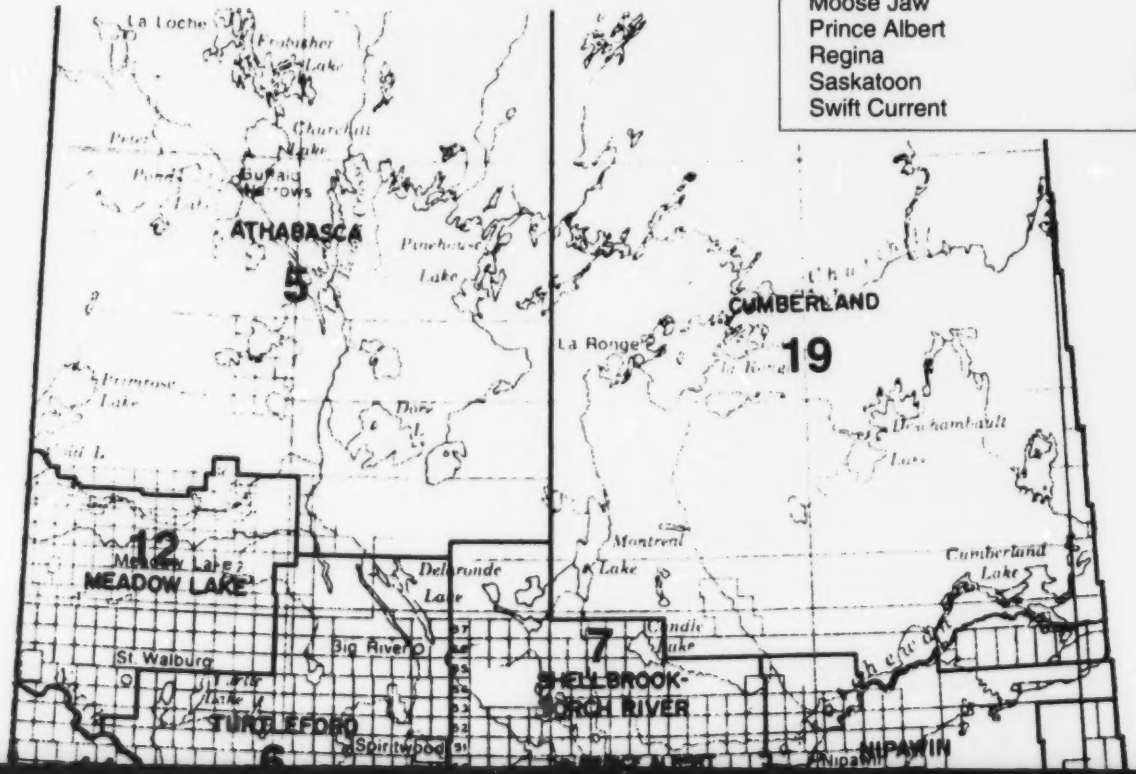
Wakaw	1
Wapella	2
Warman	3
Watrous	1
Wawota	3
Weyakwin	1
Weyburn	5
White Fox	1
Wilcox	1
Wilkie	1
Willow Bunch	1
Willowbrook	2
Windthorst	1
Wollaston Lake	1
Woodrow	2
Wynyard	2
Yellow Grass	2
Yorkton	27

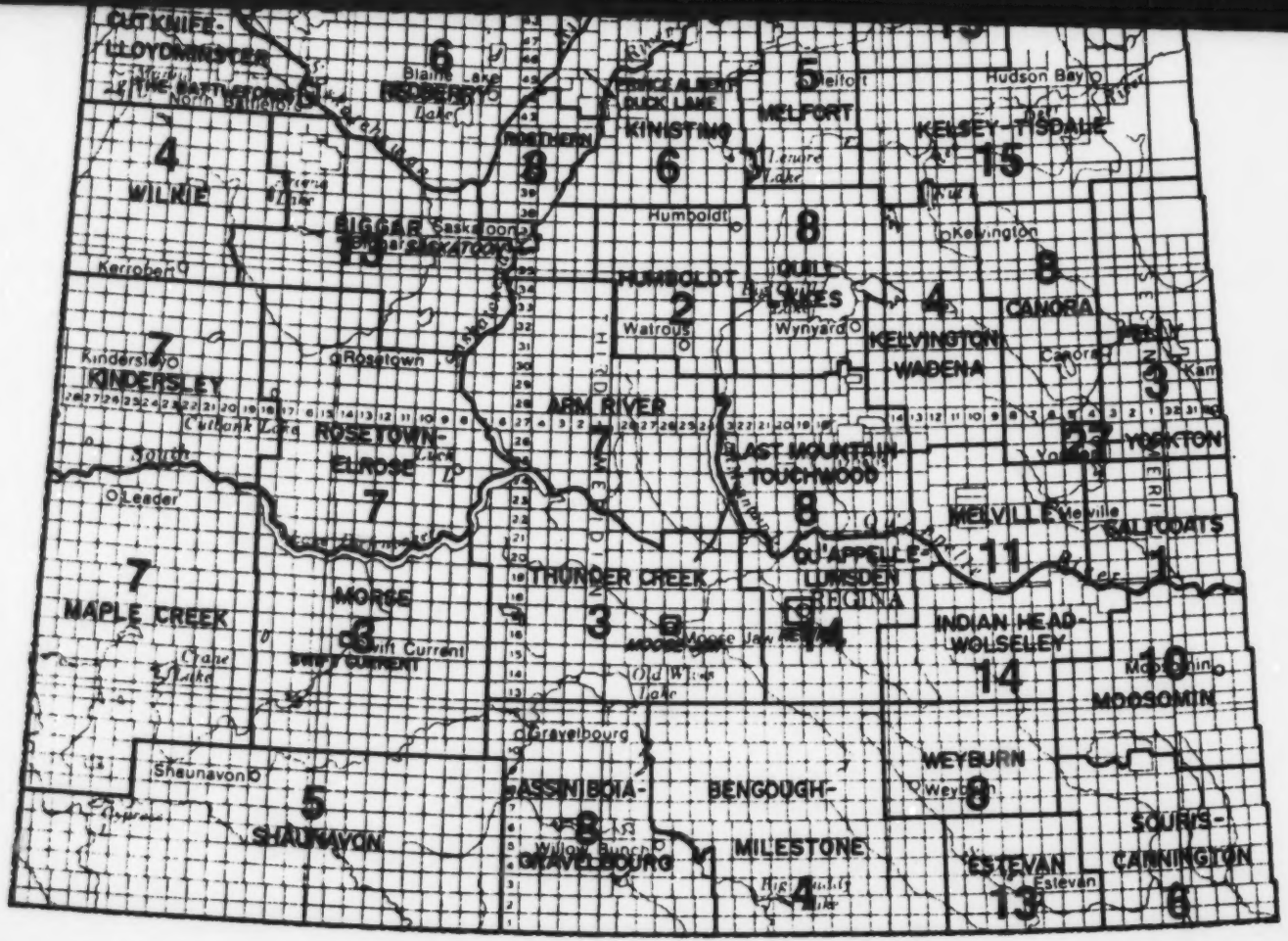
OUT OF PROVINCE

Alberta	12
British Columbia	13
Manitoba	7
Ontario	5

GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1991 PROVINCIAL CONSTIUENCIES

The Battlefords	28
Moose Jaw	50
Prince Albert	91
Regina	500
Saskatoon	405
Swift Current	10




CUT KNIFE-
LLOYDMINSTER
6
Blaine Lake
REDBERRY
5
Melfort
Hudson Bay
PRINCE ALBERT
DUCK LAKE
KINISTINO
MELFORT
KELSEY-TISDALE
15
4
WILKIE
NORTHERN
8
6
Humboldt
8
BIGGAR
Saskatoon
3
Kelvington
Kerrobert
HUMBOLDT
QUILL
LAKES
4
CANORA
2
Watrous
Wynyard
KELVINGTON-
WADENA
7
Kindersley
Rosetown
KINDERSLEY
ARM RIVER
7
EAST MOUNTAIN-
TOUCHWOOD
8
YORKTON
Cutbank Lake
ROSETOWN-
EUROSE
7
Leader
MELVILLE
Melville
SALTCOATS
1
11
QU'APPELLE-
LUMSDEN
REGINA
7
MAPLE CREEK
THUNDER CREEK
3
4
INDIAN HEAD-
WOLSELEY
14
MOOSE
JAW
3
Swift Current
Old Wives
Lake
MOOSOMIN
10
Gravelbourg
WEYBURN
Shaunavon
5
SHAUNAVON
ASSINIBOIA-
GRAVELBOURG
8
BENGOUGH-
MILESTONE
4
ESTEVAN
13
SOURIS-
CANNINGTON
6

COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES — 1991

Departments, Boards, Commissions Crown Corporations and Agencies	Department Code No.	Total
DEPARTMENTS		
COMMUNITY SERVICES		
— Housing Division*	101.3	13
EDUCATION		
— General	104	8
— Student Financial Services	104.3	26
— Skill Training	104.4	4
ENERGY AND MINES		
— Geology and Mines Division	105.2	1
ENVIRONMENT		
— General	106	1
— Environment Protection Division	106.1	1
— Water Quality Branch	106.1.2	1
FINANCE		
— Revenue Division	107.2	6
— Public Employees' Benefits Agency	107.3	10
— Taxation and Economic Policy Division	107.5	1
HEALTH		
— Medical Care Insurance Branch	108.1	7
— Prescription Drugs	108.2	2
— Vital Statistics	108.3	4
— Community Health	108.4	1
— Hearing Aid Plan	108.4.1	3
— Mental Health	108.6	10
— Continuing Care	108.7	2
— Hospital Services Branch	108.8	3
HIGHWAYS AND TRANSPORTATION		
— Engineering Division	109.1	1
— Maintenance Branch	109.1.1	1
— Operations Division	109.2	2
HUMAN RESOURCES, LABOUR AND EMPLOYMENT		
— Employment Fairness	110.1	2
— Labour Relations Branch	110.4	2
— Labour Standards Branch	110.5	30
— Occupational Health and Safety Branch	110.6	1

Departments, Boards, Commissions Crown Corporations and Agencies	Department Code No.	Total
JUSTICE		
— General	111	1
— Courts, Sheriffs	111.1	10
— Public Prosecutions	111.2	2
— Rentalsman/Provincial Mediation Board	111.3	26
— Public Trustee	111.5	9
— Maintenance Enforcement Office	111.6	38
— Corrections		
— Regina Correctional Centre	111.7.1	134
— Saskatoon Correctional Centre	111.7.2	86
— Prince Albert Correctional Centre	111.7.3	29
— Pine Grove Correctional Centre	111.7.4	11
— Battlefords Community Correctional Centre	111.7.5	2
— Community Operations/Probation	111.7.7	2
— Licensing and Investigations Branch	111.8	9
PARKS AND RENEWABLE RESOURCES		
— General	112	1
— Renewable Resources Division	112.1	7
— Support Services Division	112.2	1
— Operations Division	112.3	2
RURAL DEVELOPMENT		
— General	115	1
— Municipal Finance and Advisory Services	115.1	1
— Road Services	115.2	1
— Lands	115.5	2
SOCIAL SERVICES		
— General	117	2
— Family Services Division	117.2	71
— Young Offenders Program	117.3	4
— Income Security Division	117.4	302
— Community Living Division	117.6	3
— Child Care Branch	117.7	8
BOARDS		
CRIMINAL INJURIES COMPENSATION BOARD	202	4
HIGHWAY TRAFFIC BOARD	206	4
LIQUOR BOARD	208	1
SASKATCHEWAN ARCHIVES BOARD	211	1
SOCIAL SERVICES APPEAL BOARD	219	6

Departments, Boards, Commissions Crown Corporations and Agencies	Department Code No.	Total
WORKERS' COMPENSATION BOARD	222	119
RATE APPEALS BOARD	223	1
COMMISSIONS		
MUNICIPAL EMPLOYEES' SUPERANNUATION COMMISSION	302	1
PUBLIC SERVICE COMMISSION	303	5
HUMAN RIGHTS COMMISSION	306	6
SASKATCHEWAN LEGAL AID COMMISSION	307	31
SASKATCHEWAN POLICE COMMISSION	308	6
SASKATCHEWAN SECURITIES COMMISSION	309	3
TEACHERS' SUPERANNUATION COMMISSION	310	6
RENT APPEAL COMMISSION	311	6
CROWN CORPORATIONS		
AGRICULTURAL CREDIT CORPORATION OF SASKATCHEWAN	400	8
NEW CAREERS CORPORATION	403	1
SASKATCHEWAN CROP INSURANCE CORPORATION	404	17
SASKATCHEWAN GOVERNMENT INSURANCE		
— Motor Licensing Division	408.1	29
— Claims	408.2	130
SASKATCHEWAN HOUSING CORPORATION*	410	10
SASKATCHEWAN INSTITUTE OF APPLIED SCIENCE AND TECHNOLOGY	411	3
SASKATCHEWAN PROPERTY MANAGEMENT CORPORATION	412	2
SASKATCHEWAN TELECOMMUNICATIONS	413	52
SASKATCHEWAN TRANSPORTATION COMPANY	414	4
SASKATCHEWAN WATER CORPORATION	415	2

Departments, Boards, Commissions Crown Corporations and Agencies	Department Code No.	Total
SASKATCHEWAN ENERGY CORPORATION	416	25
SASKATCHEWAN POWER CORPORATION	417	39
AGENCIES		
WASCANA REHABILITATION CENTRE	503	1
INDIAN AND METIS AFFAIRS SECRETARIAT	507	1
SENIORS' SECRETARIAT	516	5
WASCANA CENTRE AUTHORITY	518	1
SOUTH SASKATCHEWAN HOSPITAL CENTRE	520	1
		1,439

* Please note Saskatchewan Housing Corporation (Housing Divison) appears more than once due to Government re-organization.

TOTAL COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES — 1991

	Against Saskatchewan Departments, Boards, etc.	Not Against Saskatchewan Departments, Boards, etc.	Totals
January	99	172	271
February	92	185	277
March	151	197	348
April	76	181	257
May	152	183	335
June	80	196	276
July	149	211	360
August	123	192	315
September	100	186	286
October	145	224	369
November	140	176	316
December	132	151	283
	1,439	2,254	3,693

COMPLAINTS OTHER THAN AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES
January 1 to December 31, 1991

Category	Number	%
Consumer	762	34
Federal	407	18
Local Government	146	7
Professional	98	4
Private	225	10
Courts/Legal	133	6
Family	32	1
Medical	43	2
Other	408	18
	2,254	100%

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES — 1991

	Resolved*	Rectified*	Not Rectified**	Not Substan.**	No Juris.	Discont.	Totals
1979	—	—	—	—	—	1	1
1980	—	—	—	—	—	2	2
1983	—	1	—	2	—	—	3
1984	—	—	—	6	—	6	12
1985	1	—	—	9	—	4	14
1986	—	1	—	10	—	4	15
1987	—	—	1	1	—	1	3
1988	—	5	3	2	—	—	10
1989	1	6	—	8	—	1	16
1990	5	17	6	68	—	7	103
1991	632	—	—	112	17	457	1,218
	639	30	10	218	17	483	1,397

*"Resolved" and "Rectified" designations have been combined as a "Resolved" designation on all other charts.

**"Not Rectified" and "Not Substantiated" designations have been combined as a "Not Substantiated" designation on all other charts.

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES — 1990

	Resolved	Rectified	Not Rectified	Not Substan.	No Juris.	Discont.	Totals
1983	—	—	—	1	—	—	1
1984	—	—	—	—	—	1	1
1985	—	2	2	—	—	3	7
1986	—	2	4	1	—	3	10
1987	2	4	3	6	1	2	18
1988	1	9	7	14	—	2	33
1989	18	25	9	40	—	27	119
1990	259	17	6	88	41	844	1,255
	280	59	31	150	42	832	1,444

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES — 1989

	Resolved	Rectified	Not Rectified	Not Substan.	No Juris.	Discont.	Totals
1977	—	—	—	—	—	1	1
1978	—	—	—	—	—	1	1
1979	—	—	—	—	—	2	2
1984	—	—	—	—	—	3	3
1985	—	1	—	2	—	5	8
1986	2	4	—	6	—	5	17
1987	—	13	6	10	—	4	33
1988	6	17	4	53	—	5	85
1989	274	14	—	136	40	898	1,362
	282	49	10	207	40	924	1,512

COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS, BOARDS, COMMISSIONS, CROWN CORPORATIONS AND AGENCIES — 1991

Departments, Boards, etc	Resolved	Not Substantiated	No Jurisdiction	Discontinued	Totals
DEPARTMENTS					
AGRICULTURE					
— General	—	2	—	1	3
COMMUNITY SERVICES					
— Housing Division	3	1	1	3	8
— Prince Albert Housing Authority	—	—	—	1	1
EDUCATION					
— General	4	4	2	2	12
— Student Financial Assistance	16	1	—	6	23
— Skill Training	1	2	—	1	4
— Advanced Education and Manpower*	—	—	—	1	1
ENERGY AND MINES					
— Geology and Mines Division	1	—	—	—	1
ENVIRONMENT AND PUBLIC SAFETY					
— General	1	—	—	1	2
— Environment Protection Branch	—	—	—	1	1
FINANCE					
— General	—	2	—	1	3
— Revenue Division	—	1	—	2	3
— Public Employees' Benefits Agency	5	5	—	1	11
— Taxation and Economic Policy Branch	—	—	1	—	1

Departments, Boards, etc	Received	Not Substantiated	No Jurisdiction	Discontinued	Totals
HEALTH					
— General	—	4	—	1	5
— Medical Care Insurance Branch*	1	1	—	5	7
— Prescription Drug Services	2	—	—	—	2
— Vital Statistics	3	—	—	1	4
— Community Health	1	—	—	—	1
— Hearing Aid Plan & S.A.I.L.	2	—	—	—	2
— Northern Health Services*	—	1	—	—	1
— Mental Health Services	6	—	—	2	8
— Continuing Care Branch	—	—	1	1	2
— Saskatchewan Hospital Services Branch*	2	—	—	—	2
— Dental Plan*	—	1	—	—	1
HIGHWAYS AND TRANSPORTATION					
— General	1	—	—	1	2
— Engineering Division	—	—	—	1	1
— Maintenance Branch	—	—	—	1	1
— Operations Division	—	1	—	—	1
HUMAN RESOURCES, LABOUR AND EMPLOYMENT					
— General	1	—	—	—	1
— Employment Fairness Branch	—	—	—	2	2
— Labour Relations Branch	—	—	—	2	2
— Labour Standards	16	7	—	6	29
— Occupational Health and Safety Branch	1	—	—	—	1
— Labour Services Branch*	1	—	—	—	1

Departments, Boards, etc	Resolved	Not Substantiated	No Jurisdiction	Discontinued	Totals
JUSTICE					
— Courts/Sheriffs	3	2	3	—	8
— Traffic Court	1	—	—	—	1
— Public Prosecutions	1	—	—	—	1
— Rentalsman/Provincial Mediation Board	16	—	—	5	21
— Public Trustee	5	1	—	3	9
— Maintenance Enforcement Office	14	4	—	13	31
Corrections					
— General	1	1	—	1	3
— Regina Correctional Centre	50	25	—	49	124
— Saskatoon Correctional Centre	29	16	3	35	83
— Prince Albert Correctional Centre	7	5	—	7	19
— Pine Grove Correctional Centre	21	1	—	4	26
— Battlefords Community Correctional Centre	2	—	—	—	2
— Community Operations/Probation	1	1	—	—	2
— Licensing and Investigations Branch*	4	1	—	1	6
— Young Offenders Program*	—	—	—	1	1
— Real Estate*	—	—	—	2	2
PARKS AND RENEWABLE RESOURCES					
— General	2	7	—	—	9
— Renewable Resources Division	2	—	—	1	3
— Operations Division	1	—	—	—	1
RURAL DEVELOPMENT					
— General	—	2	—	—	2
— Road Services	—	—	—	1	1
— Lands	—	2	—	1	3

Departments, Boards, etc.	Received	Not Substantiated	No Jurisdiction	Discontinued	Totals
SOCIAL SERVICES					
— General	1	1	—	2	4
— Family Services Division	19	9	1	20	49
— Young Offenders Program*	2	—	—	1	3
— Income Security Division	164	13	1	106	284
— Community Living Division	—	—	—	2	2
— Child Care Branch	4	—	—	4	8
— Regional Services Branch*	4	6	—	—	10
BOARDS					
CRIMINAL INJURIES COMPENSATION BOARD	1	5	—	2	8
HIGHWAY TRAFFIC BOARD	—	1	—	1	2
LIQUOR BOARD	1	—	—	—	1
PROJECT MANAGEMENT BOARD	—	—	—	1	1
RATE APPEAL BOARD	—	1	—	—	1
SASKATCHEWAN ARCHIVES BOARD	—	—	—	1	1
SASKATCHEWAN ASSESSMENT APPEAL BOARD*	—	3	—	—	3
SOCIAL SERVICES APPEAL BOARD	1	3	—	1	5
SURFACE RIGHTS ARBITRATION BOARD	—	1	—	1	2
WATER APPEAL BOARD	1	1	—	—	2
WORKERS' COMPENSATION BOARD	67	16	—	36	119

Departments, Boards, etc.	Resolved	Not Substantiated	No Jurisdiction	Discontinued	Totals
COMMISSIONS					
PUBLIC SERVICE COMMISSION	2	—	—	—	2
RENT APPEAL COMMISSION	—	1	—	2	3
SASKATCHEWAN ALCOHOL AND DRUG ABUSE COMMISSION	—	1	—	—	1
SASKATCHEWAN HUMAN RIGHTS COMMISSION	2	1	—	4	7
SASKATCHEWAN LEGAL AID COMMISSION	14	1	—	13	28
SASKATCHEWAN POLICE COMMISSION	2	1	—	1	4
SASKATCHEWAN SECURITIES COMMISSION	—	—	—	2	2
TEACHERS' SUPERANNUATION COMMISSION	3	—	—	1	4
CROWN CORPORATIONS					
AGRICULTURAL CREDIT CORPORATION OF SASKATCHEWAN	1	—	1	4	6
NEW CAREERS CORPORATION	—	—	—	1	1
SASKATCHEWAN CROP INSURANCE CORPORATION	7	6	—	7	20
SASKATCHEWAN ENERGY CORPORATION	20	1	—	4	25
SASKATCHEWAN GOVERNMENT INSURANCE					
— General	15	7	—	6	28
— Motor Licensing Division	7	6	—	10	23
— Claims	47	20	1	36	104
SASKATCHEWAN HOUSING CORPORATION*					
— General	2	3	—	11	16
— Regina Housing Authority	—	1	—	—	1

Departments, Boards, etc.	Received	Not Substantiated	No Jurisdiction	Discontinued	Totals
SASKATCHEWAN INSTITUTE OF APPLIED SCIENCE AND TECHNOLOGY	3	1	—	2	6
SASKATCHEWAN OIL CORPORATION*	—	—	—	2	2
SASKATCHEWAN POWER CORPORATION	22	2	—	11	35
SASKATCHEWAN PROPERTY MANAGEMENT CORPORATION	—	2	—	—	2
SASKATCHEWAN TELECOMMUNICATIONS	23	10	—	17	50
SASKATCHEWAN TRANSPORTATION COMPANY	2	—	—	1	3
SASKATCHEWAN WATER CORPORATION	1	1	—	1	3
AGENCIES					
INDIAN & METIS AFFAIRS SECRETARIAT	—	—	1	—	1
MUNICIPAL HOUSING AUTHORITY*	—	1	—	—	1
SENIORS' SECRETARIAT	2	1	—	2	5
SOUTH SASKATCHEWAN HOSPITAL CENTRE*	1	—	—	—	1
TOTALS	669	228	17	483	1,397

*Please note that some agencies may appear more than once or may no longer be in existence due to the Government re-organization which occurred.

PART V

THE OMBUDSMAN ACT

CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act.*

Interpretation

2. In this Act:

"agency of the government"

(*a*) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(*i*) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(*ii*) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

"department"

(*b*) "department" means a department or branch of the executive government of the province;

"minister"

(*c*) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal or suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension when Legislature not in session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(*a*) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(*b*) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application of certain Acts to Ombudsman and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

Oath of office

8. The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath:

OATH OF OFFICE.

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Same

9. Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

OATH OF OFFICE.

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy

10.—(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers

11.—(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers, functions and duties

12.—(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(*a*) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

(*a*) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints to Ombudsman

13.—(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint ocurred. 1972, c. 87, s. 13.

Ombudsman not restricted by provisions of other Acts

14. The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

(*a*) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or

(*b*) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions on jurisdiction

15.—(1) Nothing in this Act authorizes the Ombudsman to investigate:

(*a*) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;

(*b*) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace;

(*c*) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;

(*d*) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;

(*e*) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;

(*f*) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;

(*g*) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause *(f)* of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of jurisdiction to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

(*a*) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;

(*b*) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(*c*) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;

(*d*) in his opinion the circumstances of the case do not warrant investigation;

(*e*) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or

(*f*) during the course of an investigation it appears to him:

(*i*) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or

(*ii*) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

Notice of cessation etc. of investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

Ombudsman may require information and examine persons

22.—(1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause *(f)* of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

(*a*) to furnish information to him; and

(*b*) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

(*a*) any person, other than a minister or a person mentioned in clause *(f)* of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

(*b*) any complainant; and

(*c*) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

(*a*) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;

(*b*) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

Disclosure restricted

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

(*a*) the deliberations of the Executive Council; or

(*b*) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

Report on investigation

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

(*a*) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:

(*i*) contrary to law;

(*ii*) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(*iii*) based in whole or in part on a mistake of law or fact; or

(*iv*) wrong;

(*b*) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:

(*i*) for an improper purpose;

(*ii*) on irrelevant grounds; or

(*iii*) on the taking into account of irrelevant considerations; or

(*c*) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

(*a*) that a matter should be referred to the appropriate authority for further consideration;

(*b*) that an omission should be rectified;

(*c*) that a decision should be cancelled or varied;

(*d*) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(*e*) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(*f*) that reasons should be given for any decision, recommendation, act or omission; or

(*g*) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of proposed steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

Review of Ombudsman's decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings not subject to review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings against Ombudsman prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a braodcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of premises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

Report by Ombudsman

30.—(1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

(*a*) generally to the exercise of his powers and the performance of his duties and functions under this Act; or

(*b*) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for guidance

31.—(1) The Assembly may:

(*a*) of its own volition; or

(*b*) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and penalties

32. Any person who:

(*a*) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

(*b*) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(*c*) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

is guilty of an offence and liable on summary conviction to a fine not exceeding $500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney General may intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to provide additional remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.